



FOR IMMEDIATE RELEASE  
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## **FEDERAL DISTRICT JUDGE VALIDATES MT. LEMMON RECREATION FEE**

TUCSON – The \$5 daily recreation fee charged by the U.S. Department of Agriculture, Forest Service, for the Mt. Lemmon High-Impact Recreation Area (HIRA) was validated in an appellate opinion issued by U.S. District Court Chief Judge John M. Roll last week.

In September 2005, the Forest Service issued two citations against Christine Wallace (after issuing her four warning notices between May 2003 and July 2004 for similar violations) for failure to pay the required recreation fee when she parked her car and went for a hike in the Mt. Lemmon HIRA along the Mt. Lemmon Highway. On September 5, 2006, a U.S. Magistrate Judge in Tucson granted Wallace's motion to dismiss the criminal case, temporarily calling into question the legality of the recreation fee for the Mt. Lemmon HIRA. The United States Attorney's Office along with the Forest Service appealed that decision, and have now obtained a reversal of the dismissal order. U.S. District Court Chief Judge John M. Roll has ruled that the recreation fee for the Mt. Lemmon HIRA is legal, and the citations against Wallace have now been reinstated.

Fees have been charged for use of the recreational facilities in the Mt. Lemmon HIRA since 1996, when the Recreational Fee Demonstration Program was in effect. This case involves the first test of the federal land management agencies' new recreation fee authority under the Federal Lands Recreation Enhancement Act, including the authority to charge a recreation fee for a HIRA. The Forest Service has 98 HIRAs nationally that generate approximately \$10 million annually in recreation fee revenues. Most of these revenues are spent at the sites where they are collected.

Chief Judge Roll found that the Forest Service is legally justified in charging a recreation fee for the combined recreation areas in the Mt. Lemmon HIRA. Chief Judge Roll further found that the Forest Service is legally justified in assessing the recreation fee by vehicle and in citing vehicles that do not display proof of payment and that are parked in the Mt. Lemmon HIRA, other than at a scenic overlook. The Magistrate's previous order was vacated, and Wallace must now decide whether to go to trial or to plead guilty to the criminal citations.

The investigation in this case was handled by the Forest Service. The prosecution and appeal were handled by Jennifer J. Maldonado, Assistant U.S. Attorney, District of Arizona, Tucson, and Ellen R. Hornstein, Office of the General Counsel, U.S. Department of Agriculture, Special Assistant U.S. Attorney.

CASE NUMBER: CR-06-1577-TUC-JMR  
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